

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHAIM GROSINGER, *et al.*

Plaintiffs,

- against -

SIMON SCHOENWALD,

Defendant.
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08-CV-4361 (CS)(PED)

**ORDER ADOPTING
REPORT AND
RECOMMENDATION**

Seibel, J.

Before the Court is the Report and Recommendation (“R&R”) of Magistrate Judge Paul E. Davison dated February 3, 2009. (Doc. 10.) Judge Davison recommended that this case be dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m), based on Plaintiffs’ failure to effect service or explain why service had not been effected.

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Parties may raise objections to the magistrate judge’s report and recommendation, but they must be “specific” and “written,” and submitted “[w]ithin 10 days after being served with a copy of the recommended disposition.” Fed. R. Civ. P. 72(b)(2); *see also* 28 U.S.C. § 636(b)(1)(C).

Where a party submits timely objections to a report and recommendation, the district court reviews the parts of the report and recommendation to which the party objected under a *de novo* standard of review. 28 U.S.C. § 636(b)(1)(C); *see* Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or

return the matter to the magistrate judge with instructions.”). The district court may adopt those portions of a report and recommendation to which no objections have been made, as long as no clear error is apparent from the face of the record. *See White v. Fischer*, No. 04-CV-5358, 2008 WL 4210478, at *1 (S.D.N.Y. Sept. 12, 2008); *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985); Fed. R. Civ. P. 72 advisory committee’s note (b). The clearly-erroneous standard also applies when a party makes only “conclusory or general objections, or simply reiterates his original arguments.” *Barratt v. Joie*, No. 96-CV-324, 2002 WL 335014, at *1 (S.D.N.Y. Mar. 4, 2002).

There has been no objection to the R&R, and the Court discerns from the face of the record no clear error in the recommendations of the R&R, which appear to be justified in light of the facts and the controlling law. Accordingly, the R&R is adopted as the decision of the Court.

The Complaint is dismissed without prejudice. The Clerk is respectfully directed to close the case.

SO ORDERED.



CATHY SEIBEL, U.S.D.J.

Dated: March 25, 2009
White Plains, New York